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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAYSEAN JENKINS

Plaintiff,

v.

DANIEL SIMAS, an individual; JOSEPH  
BENSON, an individual; MIKE DAVIS, an  
individual; JOHN HALKI, an individual; and  
DEBBIE KEENNON, an individual;  
collectively,

Defendants.

Case No.: 3:23-cv-00049-ART-CLB

**ORDER GRANTING STIPULATION  
TO EXTEND TIME FOR PLAINTIFF'S  
RESPONSE TO DEFENDANT DR.  
JOHN HALKI'S MOTION TO  
DISMISS PLAINTIFF'S SECOND  
AMENDED COMPLAINT**

**[ECF No. 29]**

**(First Request)**

Pursuant to Fed. R. Civ. P. 6(b)(1) and Local Rules IA 6-1, IA 6-2, and 26-3, Plaintiff  
DAYSEAN JENKINS ("Plaintiff" or "Mr. Jenkins"), by and through his attorneys of the law  
firms of LAWRENCE & LAWRENCE LAW, PLLC and TRAVIS N. BARRICK, PC and Defendant Dr.

JOHN HALKI (“Dr. Halki”), by and through his attorneys of the law firm of LEWIS BRISBOIS BISGAARD & SMITH LLP, hereby submit this Stipulation and Order to Extend Time for Plaintiff’s Response to Defendant Dr. John Halki’s Motion to Dismiss Plaintiff’s Second Amended Complaint.

This is the first stipulation to extend the response deadline, and this stipulation is presented to the Court in advance of the current deadline of December 20, 2024. For the foregoing reasons and as is more fully explicated below, the Parties stipulate to and respectfully request that this Court extend the response deadline in this matter until January 3, 2025.

## **I. RELEVANT PROCEDURAL HISTORY**

1. On November 23, 2024, pursuant to the Court’s August 12, 2024, Order extending the deadline to amend pleadings and add parties, Plaintiff filed his Second Amended Complaint, adding new causes of action for deliberate indifference arising from violations of Article 1, Section 6 of the Nevada Constitution.

2. On December 6, 2024, Defendant Dr. Halki filed his Motion to Dismiss Plaintiff’s Second Amended Complaint (the “Motion to Dismiss”), specifically with respect to the Nevada Constitutional claims.

## **II. LEGAL STANDARD**

Fed. R. Civ. P. Rule (“FRCP”) 6(b)(1) governs extensions of time and allows, in relevant part, that “[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires.” If additional time for any purpose is needed, the proper procedure is to present a request for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31 F.R.D. 282 (W.D. Pa. 1962). An extension of time may always be sought and is usually granted on a showing of good cause if timely made under subdivision (b)(1) of [FRCP 6]. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947). Also, a district court possesses the inherent power to control its own docket.

1 *Hamilton Copper & Steel Corp. v. Primary Steel, Inc.*, 898 F.2d 1428, 1429 (9th Cir. 1990);  
 2 *Olivia v. Sullivan*, 958 F.2d 272, 273 (9th Cir. 1992).

3 LR IA 6-1 additionally requires that a motion to extend time must state the reasons for the  
 4 extension requested. LR 26-3 requires that a motion to extend any date set by the discovery plan,  
 5 scheduling order, or other order must, as well as satisfying the requirements of LR IA 6-1,  
 6 demonstrate good cause for the extension.

### 8 **III. ARGUMENT**

9 As noted above, Dr. Halki's Motion to Dismiss was filed on December 6, 2024, and  
 10 Plaintiff's Response thereto is required, in the normal course of things, by Friday, December 20,  
 11 2024. Accordingly, under FRCP 6.1(b)(1), the instant Stipulation for extension of time is timely  
 12 filed with respect to the upcoming response deadline.

13 Unfortunately, Plaintiff's lead counsel, Mr. Lawrence, has a previously and long-  
 14 scheduled trip out of country, from December 10, 2024, to December 20, 2024, which will render  
 15 a timely response to the Motion to Dismiss impracticable, if not impossible. The Parties stipulate  
 16 that this previously scheduled international trip constitutes good cause for a brief extension of  
 17 time for Plaintiff's response. Given the Christmas holiday in the week following the present  
 18 response deadline, the Parties are amenable to and request approval by the Court of an extension  
 19 for Plaintiff's Response to Dr. Halki's Motion to Dismiss of two weeks, until January 3, 2025.

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**IT IS SO STIPULATED.**

DATED this 8<sup>th</sup> day of December 2024.

**LAWRENCE & LAWRENCE LAW, PLLC**

  
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DATED this 8<sup>th</sup> day of September 2024.

**LEWIS BRISBOIS BISGAARD & SMITH LLP**

/s/ Frank A. Toddre, II  
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*Attorney for Defendant Dr. John Halki*

**IT IS SO ORDERED.**

DATED: December 9, 2024

  
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UNITED STATES MAGISTRATE JUDGE